

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	Criminal No. 4:21-cr-00009
	§	
ROBERT T. BROCKMAN	§	UNOPPOSED

UNOPPOSED MOTION TO MODIFY SCHEDULING ORDER

Defendant Robert T. Brockman respectfully moves this Court to modify the January 12, 2021 Scheduling Order in order to allow the parties to appear before the Court for a status conference at the Court's convenience at which time further deadlines can be set in this matter.

In support of its Motion, the Defendant respectfully states as follows:

1. On October 15, 2020, the government unsealed an indictment against the Defendant returned by a grand jury sitting in the Northern District of California. The Defendant was subsequently arraigned, released on an unsecured bond, and is being supervised by Pre-Trial Services in the Southern District of Texas.

2. On January 4, 2021, United States District Judge William H. Alsup transferred this case from the Northern District of California to the Southern District of Texas at the request of the Defendant, finding under Fed. R. Crim. P. 21(b) that the interests of justice and the convenience of the parties compelled the transfer of the case to this district.

3. On January 12, 2021, United States Magistrate Judge Andrew Edison conducted a status conference on this matter and, among other things, entered a Scheduling Order setting the deadline for the filing of motions as January 26, 2021, the deadline to for responses to motions as February 9, 2021, the pretrial conference for February 19, 2021, and jury trial for March 1, 2021 (Dkt. No. 11).

4. This case is a complex tax matter. The indictment contains 39 counts, alleges conduct spanning over 20 years, and involves witnesses and evidence located in numerous domestic and foreign locations. The government has indicated that the case involves over 1 terabyte of discovery, and while discovery is ongoing, the government has already produced over 5 million pages of documents. Although it is standard practice in this district for the Magistrate Judge to impose at arraignment a Scheduling Order that sets a trial date within the Speedy Trial Act time limits, the existing Scheduling Order is not practical given the size, scope and nature of this case.

5. Currently pending before the Court is a Motion for a Hearing to Determine Whether Mr. Brockman is Competent to Assist in His Defense filed by the Defendant (Dkt. No. 1-3 at 28-172). Although the government has now indicated in its response to that motion that it is not opposed to the Defendant's request for a competency hearing (Dkt. No. 1-3 at 192), the Defendant believes that a status conference is necessary to (1) secure the Court's agreement that it is appropriate to conduct a competency hearing in this matter; and (2) establish procedures for the conduct of a hearing and an agreed upon set of protocols for the discovery that will take place in advance of any competency hearing. Although the parties are working to reach an agreement on those protocols, additional time beyond the existing Scheduling Order will be necessary for these pretrial matters to be resolved.

6. In the interests of judicial economy, efficiency, and fairness, the Defendant requests that this Court issue an interim order extending the Scheduling Order by a period of sixty (60) days, pending a status conference before the court, which would result in the following modified deadlines: motions due March 29, 2021; responses due April 12, 2021; pretrial conference set for April 20, 2021; and jury trial set for April 30, 2021. Although further modifications to the schedule

will undoubtedly be necessary, an extension of sixty (60) days would allow time for a status conference to occur at which time the Court could more thoroughly assess the case schedule in light of the case's overall complexity and the preliminary competency matters.

7. This request to modify the scheduling order is made in good faith and for good cause, and is not being interposed for any improper purpose or to cause an unnecessary delay in these proceedings. As indicated in the Joint Stipulation filed on January 13, 2021 (Dkt. No. 13), the Defendant consents to time being excluded under the Speedy Trial Act until the next court appearance, and agrees that the ends of justice served by excluding the time from January 12, 2021 through that date from computation under the Speedy Trial Act outweigh the best interests of the public and Defendant in a speedy trial.

Defendant respectfully requests that this Honorable Court enter an Order modifying the Scheduling Order by extending all deadlines by sixty (60) days to allow time for a status conference to be scheduled at which time further deadlines can be set in this matter.

Dated: January 14, 2021

/s/ Jason S. Varnado

Jason S. Varnado

Texas Bar No. 24034722

SDTX Ad. ID No. 32166

Email: jvarnado@jonesday.com

David S. Smith

Texas Bar No. 24117073

SDTX Ad. ID No. 3398393

Email: dssmith@jonesday.com

JONES DAY

717 Texas, Suite 3300

Houston, TX 77002

Telephone: 832-239-3939

Facsimile: 832-239-3600

Kathryn Keneally (*Admitted Pro Hac Vice*)

New York Bar No. 1866250

Email: kkeneally@jonesday.com

James P. Loonam (*Admitted Pro Hac Vice*)

New York Bar No. 4035275

Email: jloonam@jonesday.com

JONES DAY

250 Vesey Street

New York, NY 10281-1047

Telephone: 212-326-3939

Facsimile: 212-755-7306

Attorneys for Defendant

Robert T. Brockman

CERTIFICATE OF CONFERENCE

I certify that on this 14th day of January, 2021, I conferred with counsel for the United States regarding the relief sought in this motion. Counsel indicated that the United States is unopposed to this motion.

/s/ Jason S. Varnado

Jason S. Varnado

CERTIFICATE OF SERVICE

I certify that on this 14th day of January, 2021, this document was served by electronic filing service on all counsel of record.

/s/ David S. Smith

David S. Smith